

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CASTOR TYRONE WINFREY,

Petitioner,

v.

1:18-cv-874-WSD

STATE OF GEORGIA,

Respondent.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Linda T. Walker’s Final Report and Recommendation [3] (“Final R&R”), which recommends the action be dismissed without prejudice.

On February 26, 2018, Petitioner Castor Tyrone Winfrey (“Petitioner”), a state prisoner, proceeding *pro se*, sent the Court a “LETTER ROGATORY FOR RELIEF.” ([1] at 1). Because it appeared from the letter that Petitioner challenged his judgment of conviction, the Court construed the letter as seeking relief under the federal habeas corpus laws. ([2]). The Court provided Petitioner a habeas petition form and an application to proceed *in forma pauperis* (the “IFP Application”).

On March 8, 2018, the Court ordered Petitioner to complete the IFP Application and return it within twenty-one (21) days if he desired to seek habeas relief in this Court. (Id.). The Court also warned Petitioner that failure to comply could result in dismissal of the case. (Id.). On April 20, 2018, the Magistrate Judge, not having received anything in response to the March 8th Order, recommended dismissing the action without prejudice.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). A district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). With respect to those findings and recommendations to which objections have not been asserted, the Court must conduct a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983), cert. denied, 464 U.S. 1050 (1984). Where, as here, no party filed objections to the Final R&R, the Court reviews the Court reviews it for plain error.


The Court finds no plain error in the Magistrate Judge's findings and recommendation. See Fed. R. Civ. P. 4(c), (m) (failing to comport with the service deadline may result in dismissal without prejudice); Fed. R. Civ. P. 41(b); L.R. 41.3(A)(2), N.D. Ga. ("The court may, with or without notice to the parties, dismiss a civil case for want of prosecution if . . . [a] plaintiff . . . shall, after notice, . . . fail or refuse to obey a lawful order of the court in the case . . .").

Accordingly,

IT IS HEREBY ORDERED that Magistrate Judge Linda T. Walker's Final Report and Recommendation [3] is **ADOPTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED this 19th day of June, 2018.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE